

In Brief

Westmoreland vs. CBS: trial update. General William Westmoreland's libel suit against CBS will probably last five months or more, attorneys arguing the case now believe, not the three to four months originally anticipated. That means closing arguments probably won't be given until the first or second week of March, at the earliest.

That, in turn, helps CBS in its on-going effort to force the CIA to hand over certain documents related to the case—an internal history of the agency under the leadership of Richard C. Helms in the 1960's and 1970's, and sealed transcripts of a mid-1970's congressional hearing the network believes corroborates the premise of the documentary at issue, *The Uncounted Enemy: A Vietnam Deception*. The so-called Pike Committee Hearing papers were leaked to the *Village Voice* several years ago and are believed to have concluded that Westmoreland's reshuffling of the official order of battle categories was an "attempt to retain a ceiling" on enemy troop strength estimates, one of the main premises of the broadcast.

The *Voice* also reported the committee as having concluded that the validity of most of the enemy strength estimates put out by Westmoreland's intelligence command were "dubious."

Attorneys now believe the U.S. Appeals Court in Washington will hear oral arguments on those matters, as well as whether former CIA director Helms must give a deposition on videotape, as most of the other witnesses have, some time in February. CBS lost the first round last April.

Meanwhile, the trial's two-week recess for the holidays ends this Thursday (Jan. 3) as George Crile, who produced the broadcast, again takes the stand to be questioned on cross-examination by CBS attorney David Boies. It's estimated that Westmoreland's direct case will last another seven days or so. Still to be called by the plaintiff is Ira Klein, an editor who worked on the documentary and who was highly critical of Crile's work on it. Soon after, CBS will commence its direct case.

The defense attorneys were still determining what witnesses to call at press time, but perhaps the network's best witness, an attorney on the case said, will be co-defendant Sam Adams. Adams first raised doubts about the validity of the Westmoreland command's enemy estimates as they were being assembled—at the time he was an intelligence analyst with the CIA, also working with enemy strength estimates for Vietnam. He later wrote an in depth magazine article on the subject for *Harper's*, that appeared in 1975 which was highly critical of the Westmoreland command's enemy strength gathering process. That article was edited by then *Harper's* editor George Crile, who has acknowledged that editing the piece provided the impetus for his suggesting that the same subject be addressed in a documentary when he later moved to CBS News. Crile hired Adams as a paid consultant in the making of the documentary. Adams, the attorney said, "is the best witness" CBS has. Described as "meticulous" in his work, the attorney said he will be to provide almost an "hour by hour chronology" of events related to his work as a CIA analyst.

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WASHINGTON POST
 23 December 1984

The Military Misled Us in Vietnam

Whatever the Verdict in the CBS Case, That Is Now a Matter of Record

By Eleanor Randolph

FOR VETERAN VIETNAM war journalists, the case of *Westmoreland v. CBS* has provided a documentary windfall — a rain of papers that give a glimpse of something many of them suspected, but never saw firsthand.

Within the thousands of cables and memos and letters that have been declassified, their "secret" or "eyes-only" designations scratched through to bring them into the light of public scrutiny for the first time, reside the details of how military and government officials tried in 1967 to fool the American press, to hide data about the size of the enemy's forces.

It is a story about how the military distrusted the media — an uncensored collection of hundreds of reporters whose job, for the first time in the history of American wars, was not simply to convert our boys into heroes. These reporters also told the other side of war, the side that turned our sons and brothers into cannon fodder.

But this is also a story that helps explain why many in the media distrusted the military. The paper trail documents how much time, effort and concern were expended by the men running the war and the government to make certain that the press didn't get the idea that the enemy in South Vietnam was larger than they'd previously been told when the official line was that it was growing smaller.

This story is easily available in the U.S. District Court in lower Manhattan, but it is not technically a part of this trial. Almost three years ago, when CBS aired the broadcast that is at issue in *Westmoreland's* \$120 million libel action, the network accused the general and his cohorts of trying to deceive the American public, the Congress and the president.

But when the case came to trial almost three months ago, *Westmoreland's* lawyer Dan M. Burt made it clear he would only concentrate on disproving one issue — the CBS allegation that the general tried to deceive the president.

(The judge in this case, Pierre N. Leval, warned Burt at the time that it might look a little odd when he charged the jury at the end of the trial with their duty in this matter. He compared the situation to a hypothetical plaintiff in a libel case who had been accused in a newspaper article of killing 33 people, but protested that in fact, he had only murdered 32.)

But the fact that these documents won't bear on the trial doesn't diminish their interest. They give us a fly-on-the-wall's view of the military's extreme sensitivity about the press and its ability to distort the top command's view of the war.

Worrying about the press corps — with its daily access to the American people — was not something that a warrior wanted to do, as *Westmoreland* has made clear both then and now. A field commander wants to trouble himself about troops — his and the enemy's — and with strategy — how we kill them and how we don't let them kill us.

In his book, "A Soldier's Story" published in 1976, *Westmoreland* reminds readers of what other soldiers have said or done about the press. Napoleon said "Three hostile newspapers are more to be feared than 1,000 bayonets." William Tecumseh Sherman, the tough old civil war general who tried to hang a reporter for espionage, complained about journalists who "have the impudence of Satan" when they "poke about among the lazy and pick up rumors and publish them as facts."

But what if, as it turned out frequently during the Vietnam war, the military brass thought we were winning and a lot of their men thought we weren't? Who gets to tell his version of the truth, or more precisely, whose truth goes to the public?

It is always a reporter's dilemma to try to determine who is telling the story straight, who is telling a narrow slice of the story or who is giving out the big picture. In Vietnam, reporters learned not to take the generals at their word, and the generals didn't trust what the reporters were writing about their war.

Many reporters sensed at the time that the facts were regularly being massaged, and sometimes carefully hidden in bureaucratic garble. Documents produced in this

trial demonstrate that at least in one case, that suspicion was well founded.

Here, for example, is some of the cable traffic that began when military intelligence found evidence that the Vietnamese communists were mounting more large-unit attacks than previously reported by the U.S. command.

On March 9, 1967, Gen. Earle G. Wheeler, chairman of the Joint Chiefs of Staff, cabled *Westmoreland* in a dither about the new enemy data that had come from U.S. intelligence in Saigon. At this point, the numbers were internal, but as Wheeler put it: "If these figures should reach the public domain, they would, literally, blow the lid off of Washington. Please do whatever is necessary to insure these figures are not, repeat not, released to news media or otherwise exposed to public knowledges . . ."

Two days later, a strong cable followed — again from Wheeler to *Westmoreland*. In this second message Wheeler worried about how the new figures showing increases in larger-scale attacks by the enemy would contradict what Wheeler and other government officials had been telling Lyndon B. Johnson about the enemy troop levels. He concluded that "the effect of surfacing this major and significant discrepancy would be dynamites . . ."

In the following months, a similar discrepancy arose between the CIA and *Westmoreland's* command over whether enemy strength levels were higher than they had once thought. It became clear both to the military men and to the intelligence contingent in Vietnam and Washington that they were going to have to work out a compromise between *Westmoreland's* command view that the enemy troops were leveling off at about 300,000 people and the CIA's view that the number ranged from 420,000 up to 600,000.

The CIA wanted to count local militia forces who often fought with punji sticks and home-made bombs. The Army once accepted these people as part of the communists' fighting forces, but changed its mind and began saying that they were civilians, that it had been a mistake to lump them in with the enemy's fighting forces.

The simmering argument between the CIA and the Army over these elusive num-

Continued

bers broke into a bureaucratic shouting match by August 1967. But throughout the debate over the numbers of enemy runs a fairly consistent thread of panic about what would happen if the press heard about the higher figures.

As the head of the American "pacification" program, Ambassador Robert Komer, cabled CIA official George Carver on Aug. 19, 1967: "... you can well imagine the ruckus which would be created if it came out as everything tends to on Vietnam that agency and MACV figures were so widely different. Any explanation as to why would simply lead press to conclude that MACV was deliberately omitting [local militia] category in order to downgrade enemy strength. Thus credibility gap would be further widened at very time when in fact we are moving toward much more valid estimates."

The same day Westmoreland's intelligence chief in Saigon command cabled the head of a military delegation in Langley, Va. trying to work out differences with the CIA. Maj. Gen. Phillip B. Davidson told Gen. George Godding that the enemy troop figure of 420,000 including the home militia had surfaced and "has resulted in a scream of protest and denials."

"... I am sure that this headquarters will not accept a figure in excess of the current strength figure carried by the press," Davidson cabled.

A day later, Westmoreland's deputy, Gen. Creighton W. Abrams, trumpeted the concern to his superiors, lamenting the possible press flak on the issue of the military-CIA debate on figures. "The press reaction to these inflated figures is of much greater concern. We have been projecting an image of success over the recent months, and properly so."

"Now when we release the figure of 420-431,000, the newsmen will immediately seize on the point that the enemy force has increased about 120-130,000. All available caveats and explanations will not prevent the press from drawing an erroneous and gloomy conclusion as to the meaning of the increase. All those who have an incorrect view of the war will be reinforced and the task will become more difficult."

On Aug. 29, 1967, the late Ambassador Ellsworth Bunker in Saigon cabled an "eyes only" message to Lyndon Johnson's right hand man, Walt W. Rostow: "I need hardly mention the devastating impact if it should leak out (as these things so often do) that despite all our success in grinding down VC/NVA (the Vietcong and North Vietnamese Army) here, CIA figures are used to show that they are really much stronger than ever. Despite all caveats, this is inevitable conclusion which most of press would reach."

Over the next few weeks, various branches of the government agreed on a plan they hoped would trick the press, or at least convert Saigon reporters to the command's view.

The plan, apparently instigated by the CIA, was that they would describe the home militia but not count them. The idea was that if you gave the press numbers of the civilian enemy, they will add them to the military enemy.

Then the press would compare this total with previous totals, resulting in stories that would challenge what Washington Post writer Don Oberdorfer called Lyndon Johnson's "Success Offensive" in 1967 — a constant public drumbeat about the progress of the war that backfired when the Vietcong struck virtually everywhere at once in South Vietnam during the Tet Offensive in January 1968.

During the pre-Tet period documented in this trial, the fear of the press reaction is stated in almost every declassified cable that is in evidence from the Vietnam years.

On Sept. 16, Ambassador Bunker in Saigon sent another "eyes only" cable to Rostow announcing an agreement among the various intelligence officers. He added that "We also agree with you absolutely that no backgrounder would be appropriate until you, Bob McNamara, Dick Helms and others there have had an opportunity to go over the figures and to make sure that we are all on the same wave length."

On Oct. 28, Bunker telegraphed Rostow again on the draft of a Pentagon press release on this issue.

"One aspect of it still bothers Gen. Westmoreland, Bob Komer and myself. Given the overriding need to demonstrate our progress in grinding down the enemy, it is essential that we do not drag too many red herrings across the trail. Thus, referring to old estimates of the shadowy self-defense and secret self-defense forces [the home militia] and then saying we have dropped them from the order of battle, it seems to me is simply to invite trouble. We may end up with stories that enemy strength is greater, rather than less. Far better in our view to deal with this matter orally if it arises."

In a little more than a week, public information officials began briefing the press in Washington and in Saigon on the new and better intelligence figures. The releases stressed that the new order of battle had harder data on the "fighters" and had dropped the political workers, the mamans, old men and boys from the list of the enemy because they were "non-fighters." They said, in essence, that the number of fighters had declined from 285,000 to

242,000, not including political operatives.

Many reporters bought the line. Among the few publications that appeared to go beyond it were The New Republic and The New York Times — both of which finally made a stab at tallying up the totals in December. Andrew Hamilton, writing in The New Republic, suggested the enemy

probably numbered 400,000. The New York Times, in a story Dec. 20 by Hedrick Smith, used the figure of 418-433,000.

But most reporters either shrugged off the numbers, deciding that the latest quantification of a victory by the military brass was nothing new, or believed them. At The New York Times, for example, Smith's article was followed a week later with a story by military analyst Hanson W. Baldwin who said that "military indicators in Vietnam present the most dramatic and clearcut evidence of progress in the war since the dark days of 1965." Baldwin cited the lower figures on enemy strength that were used in the press briefings.

Perhaps what is most astonishing about all this effort is that these same people were waging war at this time, concerning themselves with a variety of other issues. As Westmoreland said during the trial, he believed they would have been "dumb oxes" not to be concerned about what the press said in the nation's first uncensored and televised war.

However, as the cable traffic has unfolded for this trial, it might be argued that the press would have also been dumb oxes to accept what was given them as the unvarnished truth. As Westmoreland himself said in his 1976 autobiography: "It may well be that between the news media and public officials there is an inherent, built-in conflict of interest."

Eleanor Randolph, a Post reporter, is covering the Westmoreland-CBS trial.